

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues
Against:

Case No. SI-2012-8

CHARLES OSCAR DE SIMONI
13790 Newcastle Ct.
Fontana, CA 92335
Certified Public Accountant License
Applicant


Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 28, 2011.

It is so ORDERED November 28, 2011.



FOR THE CALIFORNIA BOARD OF
ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

11/09/2011 11:20

9898895361

RAMS

PAGE 82/89

NOV-03-2011 13:32

ATTY GENERAL OFFICE

2138975320 P.84

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 State Bar No. 164015
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2520
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **CALIFORNIA BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

13 **CHARLES OSCAR DE SIMONI**
14 **13790 Newcastle Ct.**
Fontana, CA 92335
15 **Certified Public Accountant License**
Applicant

Case No. SI-2012-8

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 *Respondent.*

17 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of
21 Accountancy. She brought this action solely in her official capacity and is represented in this
22 matter by Kamala D. Harris, Attorney General of the State of California, by Gregory J. Salute,
23 Supervising Deputy Attorney General.

24 2. Respondent Charles Oscar De Simoni (Respondent) is represented in this proceeding
25 by attorney Scott Harris, Esq., whose address is: 8383 Wilshire Blvd., Ste. #830, Beverly Hills,
26 Ca. 90211.

27 3. On or about May 13, 2011, Respondent filed an application dated May 9, 2011, with
28 the California Board of Accountancy to obtain a Certified Public Accountant License.

JURISDICTION

4. Statement of Issues No. SI-2012-8 was filed before the California Board of Accountancy (CBA), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on October 21, 2011. A copy of Statement of Issues No. SI-2012-8 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. SI-2012-8. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. SI-2012-8.

9. Respondent agrees that his Certified Public Accountant License Application is subject to denial and he agrees to be bound by the CBA's probationary terms as set forth in the Disciplinary Order below.

///

///

CIRCUMSTANCES IN MITIGATION

10. Respondent Charles Oscar De Simoni has never been the subject of any disciplinary action. He is admitting responsibility at an early stage in the proceedings.

CONTINGENCY

11. This stipulation shall be subject to approval by the California Board of Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of the California Board of Accountancy may communicate directly with the CBA regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the CBA considers and acts upon it. If the CBA fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the CBA shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the CBA may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

///

///

11/09/2011 11:20

9898895361

RAMS

PAGE 05/09

NDU-23-2011 13:32

ATTY GENERAL OFFICE

2138975320 P.87

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that upon meeting all pre-licensure requirements, a Certified Public Accountant License will be issued to Respondent Charles Oscar De Simoni and immediately revoked. The revocation will be stayed and the license issued to Respondent will be placed on five (5) years probation on the following terms and conditions:

1. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

2. **Submit Written Reports.** Respondent shall submit, within ten (10) days of completion of the quarter, written reports to the CBA on a form obtained from the CBA. The Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the CBA or its representatives.

3. **Personal Appearances.** Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the CBA or its designated representatives, provided such notification is accomplished in a timely manner.

4. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by the CBA and shall cooperate fully with representatives of the Board of Accountancy in its monitoring and investigation of the Respondent's compliance with probation terms and conditions.

5. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice investigation of the Respondent's professional practice. Such a practice investigation shall be conducted by representatives of the CBA, provided notification of such review is accomplished in a timely manner.

6. **Comply With Citations.** Respondent shall comply with all final orders resulting from citations issued by the Board of Accountancy.

7. **Tolling of Probation For Out-of-State Residence/Practice.** In the event

11/09/2011 11:20

9098895361

RAMS

PAGE 06/09

NOV-03-2011 13:33

ATTY GENERAL OFFICE

2138975320 P.00

1 Respondent should leave California to reside or practice outside this state. Respondent must
2 notify the CBA in writing of the dates of departure and return. Periods of non-California.
3 residency or practice outside the state shall not apply to reduction of the probationary period, or
4 of any suspension. No obligation imposed herein, including requirements to file written reports,
5 reimburse the CBA costs, or make restitution to consumers, shall be suspended or otherwise
6 affected by such periods of out-of-state residency or practice except at the written direction of the
7 CBA.

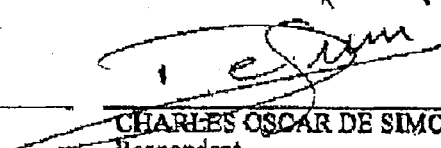
8 8. Violation of Probation. If Respondent violates probation in any respect, the CBA,
9 after giving Respondent notice and an opportunity to be heard, may revoke probation and carry
10 out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is
11 filed against Respondent during probation, the CBA shall have continuing jurisdiction until the
12 matter is final, and the period of probation shall be extended until the matter is final.

13 9. Completion of Probation. Upon successful completion of probation, Respondent's
14 license will be fully restored.

15 ACCEPTANCE

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
17 discussed it with my attorney, Scott Harris. I understand the stipulation and the effect it will have
18 on my Certified Public Accountant License Application. I enter into this Stipulated Settlement
19 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
20 Decision and Order of the California Board of Accountancy.

21
22 DATED: 11/09/11

23 
24 CHARLES OSCAR DE SIMONI
25 Respondent
26
27
28

11/09/2011 11:28 9098895361

RAMS

PAGE 87/89

NOV-03-2011 13:33

ATTY GENERAL OFFICE

2138975328 P.09

1 I have read and fully discussed with Respondent Charles Oscar De Simoni the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

3 I approve its form and content.

4 DATED: 11/9/2011

5 
SCOTT HARRIS, ESQ.
Attorney for Respondent

6
7 ENDORSEMENT

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted for consideration by the California Board of Accountancy of the Department of
10 Consumer Affairs.

11 Dated:

Respectfully submitted,

12 KAMALA D. HARRIS
Attorney General of California
13 MARC D. GREENBAUM
Supervising Deputy Attorney General

14 
15 GREGORY J. SALUTE
Supervising Deputy Attorney General
16 Attorney for Complainant
17
18
19

20 LA2011601385
51012737.doc
21
22
23
24
25
26
27
28

From: Scott Harris

Fax: (323) 988-7102

To:

Fax: +1 (213) 897-2804

Page 9 of 10 11/9/2011 3:09

11/09/2011 11:20

9898895361

RAMS

PAGE 08/09

NOV-03-2011 13:33

ATTY GENERAL OFFICE

2138976320 P.10

Exhibit A

Statement of Issues No. SI-2012-3

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 MARC D. GREENBAUM
Supervising Deputy Attorney General
4 State Bar No. 138213
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2579
6 Facsimile: (213) 897-2804
Attorneys for Complainant

8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues Against:

Case No. SI-2012-8

12 **CHARLES OSCAR DE SIMONI**
13 13790 Newcastle Ct.
Fontana, CA 92335

STATEMENT OF ISSUES

14 Certified Public Accountant License Application

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Patti Bowers (Complainant) brings this Statement of Issues solely in her official
20 capacity as the Executive Officer of the California Board of Accountancy, Department of
21 Consumer Affairs (CBA).

22 2. On or about May 13, 2011, the CBA received a Certified Public Accountant License
23 Application from Charles Oscar De Simoni (Respondent). On or about May 9, 2011, Charles
24 Oscar De Simoni certified under penalty of perjury to the truthfulness of all statements, answers,
25 and representations in the application. The CBA denied the application on July 29, 2011.

26 ///

27 ///

28 ///

1 with Section 5080), or may censure the holder of that permit or certificate for unprofessional
2 conduct that includes, but is not limited to, one or any combination of the following causes:

3 "(a) Conviction of any crime substantially related to the qualifications, functions and
4 duties of a certified public accountant or a public accountant. . . ."

5 7. Section 5106 states:

6 "A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to
7 be a conviction within the meaning of this article. The record of the conviction shall be
8 conclusive evidence thereof. The board may order the certificate or permit suspended or revoked,
9 or may decline to issue a certificate or permit, when the time for appeal has elapsed, or the
10 judgment of conviction has been affirmed on appeal or when an order granting probation is made,
11 suspending the imposition of sentence, irrespective of a subsequent order under the provisions of
12 Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter
13 a plea of not guilty, or setting aside the verdict of guilty or dismissing the accusation, information
14 or indictment."

15 8. Section 5110 states, in pertinent part:

16 "(a) After notice and an opportunity for a hearing, the board may deny an application to
17 take the licensing examination, deny admission to current and future licensing examinations, void
18 examination grades, and deny an application for a license or registration to any individual who
19 has committed any of the following acts:

20

21 "(4) Any act that if committed by an applicant for licensure would be grounds for denial
22 of a license or registration under Section 480 or if committed by a licensee or a registrant would
23 be grounds for discipline under Section 5100. . . ."

24 REGULATORY PROVISION

25 9. California Code of Regulations, title 16, section 99 states, in pertinent part:

26 "For the purposes of denial, suspension, or revocation of a certificate or permit pursuant to
27 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act
28 shall be considered to be substantially related to the qualifications, functions or duties of a

1 certified public accountant or public accountant if to a substantial degree it evidences present or
2 potential unfitness of a certified public accountant or public accountant to perform the functions
3 authorized by his or her certificate or permit in a manner consistent with the public health, safety,
4 or welfare. . . .”

5 10. California Code of Regulations, title 16, section 99.1 states:

6 When considering the denial of a certificate or permit under Section 480 of the Business
7 and Professions Code, the suspension or revocation of a certificate or permit or restoration of a
8 revoked certificate under Section 11522 of the Government Code, the board, in evaluating the
9 rehabilitation of the applicant and his present eligibility for a certificate or permit, will consider
10 the following criteria:

11 (1) Nature and severity of the act(s) or offense(s).

12 (2) Criminal record and evidence of any act(s) committed subsequent to the act(s) or
13 offense(s) under consideration which also could be considered as grounds for denial, suspension
14 or revocation.

15 (3) The time that has elapsed since commission of the act(s) or offense(s) referred to in
16 subdivision (1) or (2).

17 (4) The extent to which the applicant or licensee has complied with any terms of parole,
18 probation, restitution, or any other sanctions lawfully imposed against the applicant or licensee.

19 (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the
20 Penal Code.

21 (6) Evidence, if any, of rehabilitation submitted by the applicant or licensee.

22 **FIRST CAUSE FOR DENIAL OF APPLICATION**

23 **(Conviction of Substantially Related Crime)**

24 11. Respondent's application is subject to denial under sections 480 subdivision (a)(1),
25 and 5110, subdivision (a)(4), in conjunction with California Code of Regulations, title 16,
26 sections 99 and 99.1, that on or about November 20, 1997, Respondent was convicted of a crime
27 substantially related to the qualifications, functions, and duties of a certified public accountant, as
28 follows:

1 a. On or about November 20, 1997, after pleading guilty, Respondent was convicted of
2 one felony count of violating Title 21, United States Code section 952(a) [importation of heroin
3 into the United States] in the criminal proceeding entitled *United States of America v. Charles*
4 *Oscar de Simoni* (S.D. Fl., 1997, No. 97CR00652-001). The Court sentenced Respondent to 87
5 months in prison, and placed him on four (4) years probation.

6 b. The circumstances underlying the conviction are that on or about August 8, 1997,
7 Respondent arrived at Miami International Airport via an international flight from Caracas,
8 Venezuela, and was found by customs officials to have five (5) pounds of heroin secreted inside
9 ten (10) jackets.

10 **SECOND CAUSE FOR DENIAL OF APPLICATION**

11 **(Dishonesty, Fraud or Deceit)**

12 12. Respondent's application is subject to denial under sections 480, subdivision (a)(2),
13 and 5110, subdivision (a)(4), in that on or about August 8, 1997, Respondent committed an act
14 involving dishonesty, fraud or deceit with the intent to substantially benefit himself or others
15 when he attempted to smuggle five (5) pounds of heroin into the United States. Complainant
16 refers to and by this reference incorporates the allegations set forth above in paragraph 11,
17 subparagraphs a and b, inclusive, as though set forth fully.

18 **THIRD CAUSE FOR DENIAL OF APPLICATION**

19 **(Unprofessional Conduct - Conduct Warranting Denial of Licensure)**

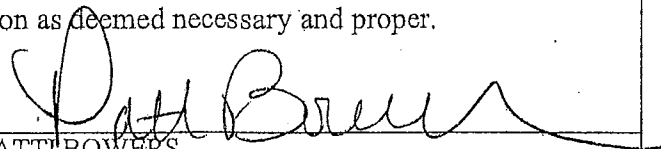
20 13. Respondent's application is subject to denial under sections 480, subdivision (a)(3),
21 and 5110, subdivision (a)(4), in conjunction with sections 490 and 5100, subdivision (a), in that
22 Respondent committed an act if done by a CBA licentiate would be grounds of suspension or
23 revocation of licensure. Complainant refers to and by this reference incorporates the allegations
24 set forth above in paragraphs 11 and 12, inclusive, as though set forth fully.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the California Board of Accountancy issue a decision:
28

- 1 1. Denying Charles Oscar De Simoni's Certified Public Accountant License
2 Application; and
3 2. Taking such other and further action as deemed necessary and proper.

4 DATED: October 20, 2011


PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

9 LA2011601385
10 60686838.doc